

110TH CONGRESS
1ST SESSION

S. 2258

To temporarily extend the programs under the Higher Education Act of 1965, to amend the definition of an eligible not-for-profit holder, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 30, 2007

Mr. KENNEDY introduced the following bill; which was read twice, considered, read the third time, and passed

A BILL

To temporarily extend the programs under the Higher Education Act of 1965, to amend the definition of an eligible not-for-profit holder, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Third Higher Edu-
5 cation Extension Act of 2007”.

6 **SEC. 2. EXTENSION OF PROGRAMS.**

7 Section 2(a) of the Higher Education Extension Act
8 of 2005 (Public Law 109–81; 20 U.S.C. 1001 note) is

1 amended by striking “October 31, 2007” and inserting
 2 “March 31, 2008”.

3 **SEC. 3. RULE OF CONSTRUCTION.**

4 Nothing in this Act, or in the Higher Education Ex-
 5 tension Act of 2005 as amended by this Act, shall be con-
 6 strued to limit or otherwise alter the authorizations of ap-
 7 propriations for, or the durations of, programs contained
 8 in the amendments made by the Higher Education Rec-
 9 onciliation Act of 2005 (Public Law 109–171) or by the
 10 College Cost Reduction and Access Act (Public Law 110–
 11 84) to the provisions of the Higher Education Act of 1965
 12 and the Taxpayer-Teacher Protection Act of 2004.

13 **SEC. 4. DEFINITION OF ELIGIBLE NOT-FOR-PROFIT HOLD-**
 14 **ER.**

15 Section 435(p) of the Higher Education Act of 1965
 16 (20 U.S.C. 1085(p)) is amended —

17 (1) in paragraph (1), by striking subparagraph
 18 (D) and inserting the following:

19 “(D) acting as a trustee on behalf of a
 20 State, political subdivision, authority, agency,
 21 instrumentality, or other entity described in
 22 subparagraph (A), (B), or (C), regardless of
 23 whether such State, political subdivision, au-
 24 thority, agency, instrumentality, or other entity
 25 is an eligible lender under subsection (d).”; and

1 (2) in paragraph (2)—

2 (A) in subparagraph (A)(i), by striking
3 subclause (II) and inserting the following:

4 “(II) is acting as a trustee on be-
5 half of a State, political subdivision,
6 authority, agency, instrumentality, or
7 other entity described in subpara-
8 graph (A), (B), or (C) of paragraph
9 (1), regardless of whether such State,
10 political subdivision, authority, agen-
11 cy, instrumentality, or other entity is
12 an eligible lender under subsection
13 (d), and such State, political subdivi-
14 sion, authority, agency, instrumen-
15 tality, or other entity, on the date of
16 enactment of the College Cost Reduc-
17 tion and Access Act, was the sole ben-
18 eficial owner of a loan eligible for any
19 special allowance payment under sec-
20 tion 438.”;

21 (B) in subparagraph (A)(ii), by inserting
22 “of” after “waive the requirements”;

23 (C) by amending subparagraph (B) to read
24 as follows:

1 “(B) NO FOR-PROFIT OWNERSHIP OR CON-
2 TROL.—

3 “(i) IN GENERAL.—No State, political
4 subdivision, authority, agency, instrumen-
5 tality, or other entity described in para-
6 graph (1)(A), (B), or (C) shall be an eligi-
7 ble not-for-profit holder under this Act if
8 such State, political subdivision, authority,
9 agency, instrumentality, or other entity is
10 owned or controlled, in whole or in part, by
11 a for-profit entity.

12 “(ii) TRUSTEES.—A trustee described
13 in paragraph (1)(D) shall not be an eligi-
14 ble not-for-profit holder under this Act
15 with respect to a State, political subdivi-
16 sion, authority, agency, instrumentality, or
17 other entity described in subparagraph
18 (A), (B), or (C) of paragraph (1), regard-
19 less of whether such State, political sub-
20 division, authority, agency, instrumentality,
21 or other entity is an eligible lender under
22 subsection (d), if such State, political sub-
23 division, authority, agency, instrumentality,
24 or other entity is owned or controlled, in
25 whole or in part, by a for-profit entity.”;

1 (D) by amending subparagraph (C) to read
2 as follows:

3 “(C) SOLE OWNERSHIP OF LOANS AND IN-
4 COME.—No State, political subdivision, author-
5 ity, agency, instrumentality, trustee, or other
6 entity described in paragraph (1)(A), (B), (C),
7 or (D) shall be an eligible not-for-profit holder
8 under this Act with respect to any loan, or in-
9 come from any loan, unless—

10 “(i) such State, political subdivision,
11 authority, agency, instrumentality, or other
12 entity is the sole beneficial owner of such
13 loan and the income from such loan; or

14 “(ii) such trustee holds the loan on
15 behalf of a State, political subdivision, au-
16 thority, agency, instrumentality, or other
17 entity described in subparagraph (A), (B),
18 or (C) of paragraph (1), regardless of
19 whether such State, political subdivision,
20 authority, agency, instrumentality, or other
21 entity is an eligible lender under subsection
22 (d), and such State, political subdivision,
23 authority, agency, instrumentality, or other
24 entity is the sole beneficial owner of such
25 loan and the income from such loan.”;

(E) in subparagraph (D), by striking “an entity described in described in paragraph (1)(A), (B), or (C)” and inserting “a State, political subdivision, authority, agency, instrumentality, or other entity described in subparagraph (A), (B), or (C) of paragraph (1), regardless of whether such State, political subdivision, authority, agency, instrumentality, or other entity is an eligible lender under subsection (d),”; and

(F) by amending subparagraph (E) to read as follows:

“(E) RULE OF CONSTRUCTION.—For purposes of subparagraphs (A), (B), (C), and (D) of this paragraph, a State, political subdivision, authority, agency, instrumentality, or other entity described in subparagraph (A), (B), or (C) of paragraph (1), regardless of whether such State, political subdivision, authority, agency, instrumentality, or other entity is an eligible lender under subsection (d), shall not—

“(i) be deemed to be owned or controlled, in whole or in part, by a for-profit entity; or

1 “(ii) lose its status as the sole owner
2 of a beneficial interest in a loan and the
3 income from a loan,
4 by such State, political subdivision, authority,
5 agency, instrumentality, or other entity, or by
6 the trustee described in paragraph (1)(D),
7 granting a security interest in, or otherwise
8 pledging as collateral, such loan, or the income
9 from such loan, to secure a debt obligation for
10 which such State, political subdivision, author-
11 ity, agency, instrumentality, or other entity is
12 the issuer of the debt obligation.”.

○